

August 26, 2016



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Chair Robert Dickson and Planning Commission Members
City of Costa Mesa
77 Fair Drive
Costa Mesa, CA 92626

ATTACHMENT 5

RE: Amending Zoning Code to Include Affordability in Harbor Mixed-Use Overlay District and Residential Incentive Overlay District

Dear Chair Dickson and Planning Commission Members:

The Kennedy Commission (the Commission) is a broad based coalition of residents and community organizations that advocates for the production of homes affordable for families earning less than \$20,000 annually in Orange County. Formed in 2001, the Commission has been successful in partnering and working with jurisdictions in Orange County to create effective policies that has led to the new construction of homes affordable to lower income working families.

As the City moves forward in preparing to amend the City's Zoning Code, the Commission urges the City to consider the following:

1. **Amend the City's Zoning Code to include the Harbor Mixed-Use Overlay, which allows a maximum residential density of 20 du/ac, ONLY IF new residential developments proposed in the overlay set-aside at least 20 percent of homes as affordable to lower income working households.**
2. **Amend the City's Zoning Code to include the Residential Incentive Overlay District, which allows new high density residential uses of up to 40 du/ac along Harbor Boulevard and Newport Boulevard, ONLY IF new residential developments proposed in the overlay set-aside 20 percent of homes as affordable to lower income working households.** In addition, motels located in the overlay should not be included unless any future/new residential developments that are proposed on these sites dedicate at least 20 percent of the homes to lower income working households. In addition, by increasing the existing base density of 20 du/ac to 40 du/ac, the City is effectively allowing by-right proposed developments at 40 du/ac and circumventing the use of a density bonus (SB 1818) for proposed projects. The implementation of the density bonus law would have facilitated the development of new affordable homes for lower income households in the City.

The City has acknowledged and anticipates the implementation of the proposed land uses will be utilized to reduce specific uses such as motels citywide.¹ The implementation of the Residential Incentive Overlay District **will** result in the displacement of substantial numbers of existing households living in motels, which necessitates the construction of

¹ Notice of Preparation City of Costa Mesa General Plan Amendment Program EIR, City of Costa Mesa, p. 4, November 16, 2015.

replacement housing elsewhere in the City. While the proposed land use changes do not authorize a specific construction project, the implementation of the Residential Incentive Overlay will provide significant development incentives and benefits that encourages and facilitates future residential developments to occur. These future residential developments can potentially result in significant and direct impacts.

- 3. Amend the City's Zoning Code to include the Residential Incentive Overlay District, ONLY IF proposed residential developments in Overlay evaluates significant impacts on motel tenants and requires the preparation of a Relocation Plan to ensure lower income households living in motels will not be displaced or be at-risk of homelessness.** Because future developers significantly benefits from the incentives provided by the Overlay, relocation assistance and replacement housing should be required for displaced tenants at proposed developments.

Contrary to what the Final Environmental Impact Report (FEIR) states², the likelihood of removing motels that are currently being used as long term housing in the City is **not** speculative. The potential for a substantial number of tenants being displaced is **not** speculative because these events are currently happening in the City and a primary example is the Costa Mesa Motor Inn (CMMI). In November 2015, the proposed plan and request for development incentives to convert the CMMI to a multi-family residential development was approved by the City. **As a result, there were many lower income long-term tenants at the CMMI who were displaced.** Because of the lack of affordable homes in the City, many households either moved to neighboring motels or moved outside of the City. There were also some households who ended up living in their cars because they had nowhere else to go.

Generally, motels provide last resort affordable housing for many lower income households and proposed market-rate residential developments will displace many at-risk families and lead them to homelessness. According to the FEIR, the report states:

“... because any specific property redevelopment would occur in the future, the specific number of persons using that particular motel for long-term occupancy is not known at this time. The type of residential development that would replace existing commercial uses, including motels, is also unknown, but could include new commercial uses, including hotel or motel uses, or new residential development that includes affordable housing which, based on the densities, could accommodate and encourage development of housing for low-income persons.”³

² Final Environmental Impact Report for the 2015-2035 General Plan, p. 4.13-10, June 26, 2016.

³ Final Environmental Impact Report for the 2015-2035 General Plan, p. 4.13-9, June 26, 2016.

Redevelopment of specific projects will certainly happen in the future but the City already has one specific example of a proposed development- the CMMI. The CMMI has been encouraged by the City through the approvals of development incentives (i.e., change in land-use and increase in density) that are allowed under the Residential Incentive Overlay. The CMMI has benefitted from these specific incentives to move forward with their proposed plans to demolish the motel and developing a new market-rate apartment complex.

The type of residential development replacing the CMMI will be a new 224 unit market-rate apartment complex at a site specific density of 54 du/ac, which notably is significantly higher than the Overlay's density of 40 du/ac. While the specific number of long-term occupants are not known at this time for future developments, the City identified 49 rooms that was occupied by 66 long-term residents.⁴ Because the proposed development includes **zero** units affordable to the lower income tenants who were living at the CMMI, a majority of these existing tenants were displaced, including the 49 households who were identified and grandfathered as long-term tenants.

The FEIR identifies that the proposed amended Land Use Plan could increase residential development in the Focus Areas by 4,040 units.⁵ Of that total, 3,062 units have allowable densities of 40 du/ac which can accommodate the development of affordable housing.⁶ In addition, in the response to comments, the City states:

“Even if a property owner chooses to develop residential uses, it is not a given that all new high density residential development will be market rate or above market rate. Zoning that allows high density residential development, as well as many other state reforms and incentives and local incentives, facilitate and expedite the development of affordable housing.”⁷

However, the same could also be said about affordable housing. If a property owner chooses to develop residential uses, it is not a given that the new high density residential development will be affordable. Default densities of 30 du/ac and greater do not necessarily produce homes that are affordable to lower income working households. This is quite evident considering the City has approved through upzoning over 2,000 new residential units that are market-rate. Unfortunately, not one of those developments, including the CMMI, proposed setting aside units that would be affordable to lower income working families.

⁴ City Council Agenda Report: General Plan amendment GP-14-04/ Rezone R-14-04/ Zoning Code Amendment CO-14-02/ And Master Plan PA-14-27 For Costa Mesa Apartments at 2277 Harbor Boulevard, City of Costa Mesa, p. 5, November 3, 2015.

⁵ Final Environmental Impact Report for the 2015-2035 General Plan, p. 4.13-6, June 26, 2016.

⁶ Final Environmental Impact Report for the 2015-2035 General Plan, p. 4.13-6, June 26, 2016.

⁷ Final Environmental Impact Report for the 2015-2035 General Plan, p. 10.0-5, June 26, 2016.

- 4. Amend the City's Zoning Code to include the Residential Incentive Overlay District, ONLY IF the City ensures the implementation of the Overlay does not circumvent the State Density Bonus Law and the development of homes affordable to lower income households.**

Incentives such as the State Density Bonus Law is an effective tool for the City to build affordable housing but the City has consistently allowed new residential development proposals to circumvent the law by spot zoning and increasing density that is currently allowable. As a result, the City has not been effective in producing affordable homes through the Density Bonus Law. Zoning that allows high density can result in the development of affordable homes, however, it has not happened in the City of Costa Mesa. Without effective programs and policies that facilitates and encourages the development of affordable housing for lower income families, it will probably not happen.

The proposed development at the CMMI is a cautionary example of a proposed development utilizing and benefiting from the Residential Overlay and not producing affordable homes for lower income households. The proposed CMMI development benefitted greatly from the Residential Overlay and development incentives (i.e., change in land use and increase in density) that the developer was previously not entitled to. These City approved development incentives should be considered as a form of a public subsidy because the incentives are giveaways that provide significant windfalls and increase the property value of the proposed development. The City approved incentives/public subsidies underscore a problem that the fails to ensure the giveaways are provided in the exchange of community benefits such as the development of affordable homes for lower income households. The developer for the proposed development at the CMMI did not set aside any homes that would be affordable to lower income households. While 20 units will be set-aside for moderate income families, the proposed rents, \$1,600 - \$1,800 are out-of-reach and not affordable to current CMMI tenants or potential lower income tenants in the City. In addition, by increasing the existing base density at the proposed development, the City is effectively circumventing the use of a density bonus for proposed projects, which would have facilitated the development of new affordable homes for lower income households in the City.

- 5. Collaborate with the Costa Mesa Affordable Housing Coalition and community stakeholders to develop effective stand-alone housing policies (i.e., inclusionary housing) and create an affordable housing component for lower income working households as part of the Residential Incentive Overlays that will prioritize and facilitate the development of affordable home opportunities for lower income working households.**

Chair Dickson and Planning Commission Members
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We look forward to City's responses to our recommendations and if you have any questions, please feel free to contact me at (949) 250-0909 or cesarc@kennedycommission.org.

Sincerely,

A handwritten signature in black ink, appearing to read "Cesar", with a long, sweeping horizontal line extending to the right.

Cesar Covarrubias
Executive Director

cc: Kathy Esfahani, Costa Mesa Affordable Housing Coalition

PH-1
received at
4:58 pm
JC

Costa Mesa Affordable Housing Coalition

August 29, 2016

Chair Robert L. Dickson, Jr. and Planning Commission Members
City of Costa Mesa
77 Fair Drive
Costa Mesa, CA 92626

RE: Amending Zoning Code to Include Affordability in Harbor Mixed-Use Overlay District and Residential Incentive Overlay District

Dear Chair Dickson and Planning Commission Members:

The Costa Mesa Affordable Housing Coalition (the Coalition) urges the Planning Commission to take the following actions tonight in regard to the Harbor Mixed-Use Overlay District and Residential Incentive Overlay District:

1. **Amend the City's Zoning Code to include the Harbor Mixed-Use Overlay, which allows a maximum residential density of 20 du/ac, ONLY IF new residential developments proposed in the overlay set-aside at least 20 percent of homes as affordable to lower income working households.**
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Sincerely,

Kathy Esfahani

Kathy Esfahani
For The Costa Mesa Affordable Housing Coalition